THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18513 OF 1996

DATED:18-04-2006

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Between:

Chintalapalem Gram Panchayat, represented by its Sarpanch M. Guravaiah. and others ..Petitioners

And

The District Collector, Prakasam District at Ongole. and others ..Respondents

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ORDER:

The first petitioner is the Chintalapalem Gram Panchayat in Prakasam District. Petitioners 2 to 5 are the residents of the Motravulapadu Village. They filed the instant Writ Petition seeking a direction to the respondents not to assign any portion of the land in survey No.89/3 and other communal lands situated in between the two temples in survey No.89/2.

A counter-affidavit is filed by the Mandal Revenue Officer, Pamur Mandal, Prakasam District, on behalf of the respondents. In paragraph six of the counter-affidavit, it is stated that there are no proposals for assignment of the land in survey Nos.89/2 and 89/3. It is further stated that the communal land is being used for devotional purposes and the cart track is only used by the public. However, an averment is made that after forming the new road, the unused portion of the cart track in survey No.89/3 measuring an extent of Acs.0.25 cents is proposed for provision of house sites to the weaker sections of Motravulapadu Village. It is also alleged that the petitioners have encroached upon a portion of the communal land in survey No.89/2 and raised brick kilns, who were evicted by the Mandal Revenue Officer pursuant to the orders of the Revenue Divisional Officer on 26.12.1995.

The counter-affidavit does not dispute the fact that the land in survey No.89/2 is a

communal land and the land in survey No.89/3 is a cart track. In either case, unless and until the District Collector renotifies changing the classification of the land, the land cannot be assigned for any other purpose. As rightly pointed by the learned counsel for the petitioners, under Section 53 of the Andhra Pradesh Panchayat Raj Act, 1994, all the public roads in any village except National Highways, State Highways, Zilla Parishad/Mandal Parishad roads, vest in the Gram Panchayat together with all pavements etc. Therefore, unless and until an appropriate notification is issued by the competent authority, the Gram Panchayat cannot be divested of its right to maintain the cart track.

Therefore, the Writ Petition is disposed of observing as above. No costs.

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(V.V.S.RAO, J)

18.04.2006

GJ